IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 329 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA Sd/-

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ? **1 to 5 NO**

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STATE OF GUJARAT THROUGH R K BHATT, C I CELL - Applicant(s)

Versus

HAJIMOHMED ABDULRAHEMAN SHAIKH & 4 - Respondent(s)

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Appearance :

MR SS PATEL ADDL PUBLIC PROSECUTOR for Applicant(s) : 1,
MR MG NAGARKAR for Respondent(s) : 1,3 - 4.
NOTICE UNSERVED for Respondent(s) : 2, 5,

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 11/12/2006

ORAL JUDGMENT:

1. The State has invoked Section 397 of the Code of Criminal Procedure, 1973 (for short "the Code") to call into question the order dated

17.3.1998 of the learned Special Judge in Special Criminal Case No.17 of 1997 granting the application under section 227 of the Code and dropping the proceedings against the accused. It was seen from the impugned judgment and order that the only charge against the accused was for the offence punishable under sections 3 and 7 of the Essential Commodities Act, 1955 on the basis of violation of the Cement Control (Regulation of Production) Order, 1981. No such violation of the Order could be established either before the trial court or before this court, even as a large number of empty bags of cement were found at the premises of the accused and an attempt to sell adulterated cement was alleged. The charge of adulteration was nullified by an analysis report of a government approved testing laboratory. Thus, no case having been made out for interference with the impugned judgment and order, the petition is dismissed and Rule is discharged with no order as to costs.

Sd/-

(D.H.Waghela, J.)

(KMG Thilake)